Direct Investigation

3.1 Since June 1994, The Ombudsman may initiate direct investigation in the absence of complaints. Paragraph (ii) of section 7(1) of the Ordinance gives her a free hand to probe into matters of public interest or community concern that call for review of administrative systems and procedures or practices. This is an important function because it enables me to conduct independent reviews at a macro level, as opposed to individual cases, examine systems with systemic problems or widespread defect and recommend measures for improvement.

Aims and Objects

3.2 Our direct investigations aim to :

(a) follow through systemic problems which investigation of individual complaints cannot solve;

(b) eliminate problems and obviate complaints; and

(c) address fundamental administration flaws believed to be the underlying cause for complaints.

3.3 With direct investigation, we endeavour to improve the quality of public administration, enhance transparency and promote accountability. This should help Government and public bodies to appreciate the needs and expectations of an ever more discerning and increasingly demanding community. Meanwhile, it opens up the operations of public administration for closer scrutiny and clearer understanding.

Selection of Issues

3.4 Selection and monitoring of areas for direct investigation is carefully done by a standing panel chaired by my Deputy and comprising the two Assistant Ombudsmen and our small Direct Investigation Team.

3.5 A direct investigation may be prompted by topical issues or repeated complaints on particular matters and new or revised Government policies. Such matters are generally :

- of community interest, aspirations or expectations;
- of considerable scale or in some number;
- of macro magnitude and topical concern;
- not under examination by another agency; and
- not for the courts or tribunals.

3.6 I am grateful for the public confidence in my Office, as evidenced by calls for me to initiate direct investigation when public issues arise. Notable examples this year include:

(a) sale of the Hunghom Peninsula Home Ownership Scheme estate; and

(b) institution of the Link Real Estate Investment Trust for privatisation of Housing Authority shopping centres and car parks.

3.7 However, restrictions by the Ordinance preclude my action in relation to contractual or commercial transactions and decisions to do with any interest in Government land or value for money in the use of resources. I am acutely aware of these barriers. I envisaged that any direct investigation conducted by me into the two issues above was likely to raise more questions than I could answer within my purview. I was, therefore, content to leave them to other more suitable authorities.

Investigation Methodology

3.8 My statutory powers for direct investigation are similar to those for inquiries into complaints. However, unlike individual complaints, it is our established practice to declare publicly the initiation of direct investigation and invite views from relevant sectors as well as the community at large.

3.9 Before we formally launch a direct investigation, we may at times conduct an initial assessment ("DI assessment"). For this purpose, we research relevant information publicly available from, say, annual reports and homepages, legislation and media reports. We may also seek information from the organisations direct. If such assessment points to the need for further scrutiny, I will formally notify the heads of the organisations concerned before making a public declaration of a direct investigation. Invariably, they pledge cooperation to facilitate our investigation.

3.10 Where our DI assessment finds no significant maladministration, or proactive improvement has been made by the organisations concerned, we will not initiate a direct investigation but simply forward our DI assessment report to the organisations for comment. Such report outlines the background to the issue, an appraisal of public concern, our observations on the role and action (especially any remedial action) of the organisation(s) concerned and our recommendations.

3.11 While not involving in-depth investigation, such assessments do analyse matters of wide public interest and provide positive pointers for improvement. For example, we conducted an assessment on the information provided in the Inland Revenue Department ("IRD")'s *Assessment and Demand for Tax* ("the notice"). We found that the notice did not give enough information on the calculation of the tax payable, resulting in some taxpayers being unable to reconcile the amount they thought they had to pay and the amount actually charged by IRD. Some of the *Assessor's Notes* on the reverse page of the notice were also difficult to comprehend. While the issue does not merit further scrutiny, we suggested improvement measures. IRD has since reviewed to improve services.

Investigations over the Years

3.12 Since conferment of powers for direct investigation in 1994, this Office has completed 51 direct investigations resulting in 700 recommendations (see **Annex 6**). We request the organisations concerned to report progress every six months for monitoring their implementation of our recommendations until the recommendations are fully implemented.

3.13 Over the last five years, 25 direct investigations have been undertaken :

Fig. 3.1

Direct Investigations over Last Five Years	
2000/01	5
2001/02	4
2002/03	6
2003/04	5
2004/05	5

3.14 This year, apart from five direct investigations, my Office completed six DI assessments.

Fig. 3.2

Direct Investigation Reports Published in 2004/05

Published	Subject
20 May 2004	2003 Priority arrangements for surplus teachers in aided primary schools
30 June 2004	Enforcement of the Building Management Ordinance
26 August 2004	Enforcement action on unauthorised building works in New Territories exempted houses
4 November 2004	Administration of urn grave cemeteries
16 December 2004	Bloodworms in public swimming pools

Fig. 3.3

Direct Investigation Assessments Completed in 2004/05

Completed	Subject
2 April 2004	Action against the burning of candle wax at Mid-Autumn Festival
30 June 2004	Information provided for personal tax assesment
30 July 2004	The use of bilingual information materials
24 August 2004	Enforcement of demolition orders
26 November 2004	Repair of external wall cladding at a Home Ownership Scheme estate
4 March 2005	Administration of squatter control

Fig. 3.4

Direct Investigations in Progress

Declared	Subject
26 August 2004	Administration of the Mid-Levels administrative moratorium
4 November 2004	Administrative arrangements for market stall auction
20 January 2005	Supervision of property services agents by the Housing Department

3.15 In general, the organisations concerned have been cooperative during the investigation process, as they understand that our aim is to help them improve their systems, procedures and practices for better administration. We are, of course, also grateful to the media and the public at large for their support for our findings and recommendations when they are published.